

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RENITA BELTON et al.,	:	
	:	
Plaintiffs,	:	
	:	Civil Action File No.
vs.	:	
	:	1:10-CV-0583-RWS
STATE OF GEORGIA, et al.,	:	
	:	
Defendants.	:	

**JOINT MOTION OF PARTIES FOR THE ENTRY OF A CONSENT
ORDER THAT WOULD SUPERSEDE THIS COURT’S ORIGINAL
REMEDIAL ORDER AND WOULD RESOLVE
DEFENDANTS’ APPEAL TO THE ELEVENTH CIRCUIT**

Plaintiffs and Defendants, by and through their undersigned counsel, hereby move this Court to consider and enter the proposed consent order which accompanies this motion. The grounds of this motion are as follows:

1.

This Court entered a remedial order on June 18, 2013. [Doc. 172].

2.

Defendants filed a Notice of Appeal from that order, as well as the order granting class certification and the order granting partial summary judgment. [Docs. 82 and 115].

3.

After oral argument in the Eleventh Circuit, the Court of Appeals entered an order referring the appeal to mediation under the auspices of the Kinnard Mediation Center. [Case No. 13-13316, Order of April 11, 2014].

4.

Pursuant to that order, the parties engaged in lengthy negotiations, discussions, and several separate mediation sessions.

5.

At all times, Monitor Williams participated in those mediation sessions and related discussions with the parties concerning the appropriate details of a remedial consent order.

6.

The proposed order presented to the Court with this motion is a result of that mediation process.

7.

The proposed order identifies three classes:

(1) *Deaf Class Members* -- “Deaf individuals (1) eligible for or receiving state-funded services for mental illness, including in state hospitals; or (2) Deaf

individuals awarded Comprehensive Supports Waiver Program (“COMP”) funding;”

(2) *D/MI Class Members* -- “Deaf individuals eligible for or receiving state funded services for mental illness, including in state hospitals, who need non-crisis related therapy or counseling services provided by ASL fluent therapists or counselors or through the use of interpreters;” and

(3) *D/DD Class Members* – “Deaf individuals awarded COMP funding.”

8.

The remedial relief in the proposed consent order would provide equitable relief for the three identified classes that fully satisfies the rights of the class members under Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 et seq., and Section 504 of the Rehabilitation Act (“Section 504”), 29 U.S.C. § 701 et seq.

9.

The proposed order, if approved by the Court, would supersede this Court’s remedial order of June 18, 2013.

10.

The parties represent to the Court that Monitor Williams is completely in agreement with the proposed order and the relief it provides to the class. Mr.

Williams is of course available for the Court's consultation in connection with the instant motion, as he has been throughout the remedial phase of this case.

11.

With this Court's approval of the proposed order, the Defendants' appeal would be dismissed.

12.

On September 26, 2014, the Court of Appeals entered the attached order remanding the appeal in this case to this Court for 30 days for the limited purpose of considering the instant motion. See Ex. 1.

WHEREFORE, Plaintiffs and Defendants jointly move and request that the Court consider and approve the proposed consent order accompanying this motion.

RESPECTFULLY SUBMITTED:

/s/ David F. Walbert

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 13-13316-CC

RENITA BELTON,
MATTHEW ERICKSON,
on behalf of themselves and all those similarly situated,

Plaintiffs - Appellees,

versus

STATE OF GEORGIA,
FRANK SHELP,
in his individual and official capacity as Commissioner of Georgia's
Department of Behavioral Health & Developmental Disabilities,
Et al.,

Defendants - Appellants

On Appeal from the United States District Court
for the Northern District of Georgia

BEFORE: ANDERSON and EBEL,* Circuit Judges, and UNGARO,** District Judge

BY THE COURT:

Now pending before the Court is the parties' joint motion for limited remand to the
District Court for the purpose of allowing that Court to consider a proposed consent

*Honorable David M. Ebel, United States Circuit Judge for the Tenth Circuit, sitting by
designation.

**Honorable Ursula Ungaro, United States District Judge for the Southern District of
Florida, sitting by designation.

EXHIBIT

1

Order which would resolve this appeal. The parties suggest a limited remand of up to thirty (30) days.

After consideration, we GRANT the parties' joint request for a limited remand and REMAND this matter to the District Court for the limited purpose of considering the parties' proposed consent order and approving that consent order should the District Court wish to do so.

In order to allow the District Court sufficient time to review the proposed consent order, this matter shall be remanded for a period of no more than sixty (60) days.

The parties are directed to promptly notify this Court of the District Court's decision whether to approve the proposed consent order. In the event that the District Court approves the proposed consent order, the parties may file a joint motion to dismiss this appeal in lieu of any status report.

CERTIFICATE OF CERTIFICATION AND SERVICE

The undersigned hereby certifies that the foregoing document was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1B. I further certify that the foregoing ***JOINT MOTION OF PARTIES FOR THE ENTRY OF A CONSENT ORDER THAT WOULD SUPERSEDE THIS COURT'S ORIGINAL REMEDIAL ORDER AND WOULD RESOLVE DEFENDANTS' APPEAL TO THE ELEVENTH CIRCUIT*** was filed with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to all attorneys of record.

This 26th day of September, 2014.

/s/ David F. Walbert

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